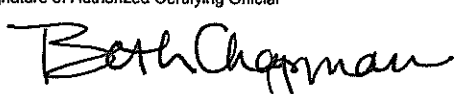


FINANCIAL STATUS REPORT

(Long Form)

1. Federal Agency and Organizational Element to Which Report is Submitted GSA		2. Federal Grant or Other Identifying Number Assigned By Federal Agency		OMB Approval No. 0348-0038	Page of 1 1
3. Recipient Organization (Name and complete address, including zip code) State of Alabama Office of the Secretary of State P.O. Box 5616 Montgomery, AL 36103-5616					
4. Employer Identification Number 63-6000619		5. Recipient Account Number or Identifying Number HAVA TITLE II SECTION 251		6. Final Report <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
8. Funding/Grant Period (See instructions) From: (Month, Day, Year) 5/1/2003		9. Period Covered by this Report From: (Month, Day, Year) UNTIL DISBURSED 10/1/2005		7. Basis <input checked="" type="checkbox"/> Cash <input type="checkbox"/> Accrual To: (Month, Day, Year) 9/30/2006	
10. Transactions:		I Previously Reported		II This Period	
a. Total Outlays		1,493.61		12,466,218.28	
b. Refunds, rebates, etc.				12,467,711.89	
c. Program income used in accordance with the deduction alternative				-	
d. Net outlays (Line a, less the sum of lines b and c)		1,493.61		12,466,218.28	
				12,467,711.89	
Recipient's share of net outlays, consisting of:					
e. Third party (in-kind) contributions				-	
f. Other Federal awards authorized to be used to match this award				-	
g. Program income used in accordance with the matching or cost sharing alternative				-	
h. All other recipient outlays not shown on lines e, f, or g		74.68		623,310.91	
i. Total recipient share of net outlays (sum of lines e, f, g, and h)		74.68		623,385.59	
				623,385.59	
j. Federal share of net outlays (line d less line i)		1,418.93		11,842,907.37	
				11,844,326.30	
k. Total unliquidated obligations					
l. Recipient's share of unliquidated obligations					
m. Federal share of unliquidated obligations					
n. Total Federal share (sum of lines j and m)				11,844,326.30	
o. Total Federal funds authorized for this funding period				25,151,884.20	
p. Unobligated balance of Federal funds (line o minus line n)				13,307,557.90	
Program income, consisting of:					
q. Disbursed program income shown on lines c and/or g above					
r. Disbursed program income using the addition alternative					
s. Undisbursed program income					
t. Total program income realized (sum of lines q, r and s)					
11. Indirect Expense					
a. Type of Rate (Place "X" in appropriate box) <input type="checkbox"/> Provisional <input type="checkbox"/> redetermined <input type="checkbox"/> Final <input type="checkbox"/> Fixed					
b. Rate		c. Base		d. Total Amount	
				e. Federal Share	
12. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation. Line 10c includes: Cumulative Title II funds in the amount of \$35,866,513.00 and cumulative interest earned on Title II funds in the amount of \$1,428,210.37; less court ordered transfer to Governor's Office in the amount of \$12,000,000 in Title II funds and court ordered transfer to Governor's Office in the amount of \$142,839.17 of applicable interest. Cumulative state match appropriated through 9/30/2006 equals \$1,791,922.00 and cumulative interest earned on state match is \$75,635.90.					
13. Certification: I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.					
Typed or Printed Name and Title Beth Chapman, Secretary of State State of Alabama				Telephone (Area code, number and extension) 334 242 7220	
Signature of Authorized Certifying Official 				Date Report Submitted: AMENDED 3/15/07	

Title II, Section 251 Annual Narrative Report for Fiscal Year 2006

During Fiscal Year 2006, the Secretary of State's Office expended \$12,466,218.28 of Section 251 funds to reimburse the counties for the purchase of compliant voting systems.

These expenditures conform to Alabama's State Plan, and were conducted in accordance with the Alabama HAVA Committee reimbursement guidelines.

The formula that the Alabama HAVA Committee reimbursement guidelines equaled:

The # of polling locations + 1 Absentee Box + 10% overage (spares) + # of locations > 2,400 registered voters = the allowable number of scanning counters and /or disability accessible automarks that could be reimbursed. Then the number of machines actually purchased by the county [if within the allowable number] was multiplied by the ACCA bid price.

The Secretary of State's Office reimbursed each county based on its expenditure for voting equipment only in an effort to compensate all 67 counties equitably.

On May 1, 2006, the U.S. Department of Justice filed suit against the Secretary of State's Office for failure to comply with Section 303 with respect to the statewide computerized voter registration list required by HAVA. The statutory deadline was January 1, 2004. Alabama received a two year extension of this deadline, but failed to meet the subsequent January 1, 2006 deadline. The court found it necessary to discharge the former Secretary of State Nancy Worley from the duties of her elected office and appointed a Special Master to complete the task. The Governor of the State of Alabama, Bob Riley, was appointed as the Special Master to fulfill these duties on August 2, 2006 for the purposes of implementing Section 303 of the Help America Vote Act.

All remaining funds related to HAVA designated for the development and implementation of the voter registration list, including interest earned, were transferred to the custody and control of the Governor's Office and placed in a separate fund known as the Help America Vote Act – Voter Registration Fund. The amount determined to be turned over to the Governor's Office was \$12,000,000, which was dedicated to the voter registration system in the initial state plan, plus accrued interest of \$420,932.38, less applicable expenditures determined by the former Secretary of State of \$278,093.21, which totals \$12,142,839.17. The transfer of funds was made on September 25, 2006. The Secretary of State has no administrative or fiscal control of these funds.

In addition, the Secretary of State's Office was without a finance director from June 16, 2006 until March 1, 2007. During these eight and one half months, the office had no permanent financial person to oversee the fiscal responsibilities of HAVA.

The former Secretary of State Nancy Worley's term ended on January 15, 2007. The newly elected Secretary of State, Beth Chapman, took office on January 16, 2007. Once the term of the Special Master is complete, Secretary Chapman will take over the full duties of implementing the Help America Vote Act in compliance with the court order. Since taking office, Secretary Chapman has been and is dedicated to implementing the Help America Vote Act fully and completely in the State of Alabama and in compliance with applicable laws and regulations.

SUMMARY OF EXPENDITURES

DATE	PAYEE	TITLE I GROUP 101	TITLE I GROUP 102	TITLE II	TOTAL
7/16/2003	Robert G. Bates	172.80			172.80
7/16/2003	Michael F. Bolin	61.20			61.20
7/16/2003	Thomas L. Coley, Jr.	121.68			121.68
7/16/2003	Catherine Crosby	115.20			115.20
7/16/2003	Barbara F. Crozier	33.12			33.12
7/16/2003	M. Donald Davis, Jr.	396.72			396.72
7/16/2003	Walta Mae Kennie	104.40			104.40
7/16/2003	Mitchell Moore	11.16			11.16
7/16/2003	Anne Permaloff	47.88			47.88
7/16/2003	Jane C. Smith	367.92			367.92
7/16/2003	Michael A. Smith	209.52			209.52
7/16/2003	Frances J. Stone	294.48			294.48
7/16/2003	Susan F. Wilson	140.40			140.40
7/16/2003	Vicki O. Balogh	26.70			26.70
7/16/2003	Nancy L. Worley	54.71			54.71
8/6/2003	Dream Makers	337.50			337.50
8/15/2003	Margaret Burkhalter	61.92			61.92
8/15/2003	Earlean Isaac	97.20			97.20
9/10/2003	The Legends at Capitol Hill	1,354.30			1,354.30
9/10/2003	National Assn of Secretaries of State	1,000.00			1,000.00
9/10/2003	Alabama Education Association	250.00			250.00
9/19/2003	N Focus Productions		500.00		500.00
9/19/2003	Union Springs Herald		419.30		419.30
11/26/2003	The Heritage Club	826.40			826.40
11/26/2003	Personal Touch Inc	751.70			751.70

TOTAL	FISCAL YEAR 2003	6,836.91	919.30		7,756.21
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7/30/2004	Ray Styles	151.50			151.50
7/30/2004	Sue Schmitz	160.50			160.50
7/30/2004	Donald Davis	131.63			131.63
8/14/2004	Sahara	300.00			300.00
9/23/2004	Judy Wagnon	66.60			66.60
10/9/2004	Rus Baxley Photography	153.00			153.00
10/9/2004	Boosters	75.00			75.00
10/9/2004	NASS	2,000.00			2,000.00
10/20/2004	Ken Guin	105.75			105.75
10/22/2004	Jennie Weller Catering	187.50			187.50
10/23/2004	Richard Proctor	134.25			134.25
10/26/2004	Ray Styles	164.00			164.00
10/27/2004	Volunteer Information Center	25.00			25.00
11/2/2004	Marilyn Latta	82.50			82.50
11/5/2004	Donald Davis	132.00			132.00
11/5/2004	Strickland Paper	40.99			40.99
11/6/2004	Anita Raby	253.75			253.75
11/11/2004	Katheryn McVay	216.00			216.00
11/20/2004	Sue Schmitz	163.50			163.50
11/24/2004	PV 50460000136 Romanow Container			1,493.61	1,493.61
11/25/2004	Genetta Meeks	101.25			101.25

TOTAL	FISCAL YEAR 2004	4,644.72	-	1,493.61	6,138.33
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11/12/2004	PV	50460000173	DAVIS PRINTING	0900	7,499.00	7,499.00
12/3/2004	PV	50460000195	BRENDA K	0800	124,955.00	124,955.00
12/30/2004	PV	50460000196	J GARY	0800	5,000.00	5,000.00
12/30/2004	PV	50460000201	RAY STYL	0300	127.63	127.63
1/24/2005	PV	50460000209	M DONALD	0300	447.93	447.93
1/24/2005	PV	50460000214	JOE DUCK	0300	56.25	56.25
1/24/2005	PV	50460000215	MICHAEL	0300	63.75	63.75
2/2/2005	PV	50460000231	RAY STYL	0300	137.25	137.25
2/2/2005	PV	50460000235	RICHARD	0300	175.88	175.88
2/8/2005	PV	50460000208	VALVIER	0300	180.75	180.75
2/10/2005	PV	50460000307	EVELYN	0300	40.50	40.50
2/10/2005	PV	50460000308	MARTHA A	0300	45.00	45.00
2/11/2005	PV	50460000309	MARCIA M	0300	148.50	148.50
2/18/2005	PV	50460000236	ROBERT J	0300	66.75	66.75
2/18/2005	PV	50460000237	BETTY HU	0300	37.50	37.50

SUMMARY OF EXPENDITURES

DATE		PAYEE		TITLE I GROUP 101	TITLE I GROUP 102	TITLE II	TOTAL
2/18/2005	PV	50460000328	GLENDA	0300	63.75		63.75
2/25/2005	PV	50460000337	J GARY	0800	5,000.00		5,000.00
2/25/2005	PV	50460000338	BRENDA K	0800	266,333.00		266,333.00
3/2/2005	PV	50460000340	SONJA	0300	75.00		75.00
4/13/2005	PV	50460000371	CRIMSON	0800	80,000.00		80,000.00
6/28/2005	PV	50460000525	DENISE B	0800	93.77		93.77
6/28/2005	PV	50460000534	LINDA C	0300	165.86		165.86
7/5/2005	PV	50460000542	JANE	0300	7.50		7.50
7/8/2005	PV	50460000551	MICHAEL	0800	71.25		71.25
8/31/2005	JV	BWR03375043	PAYROLL	0100	1,467.80		1,467.80
8/31/2005	JV	BWR03375159	EMPL BENEFITS	0200	112.28		112.28
8/31/2005	JV	BWR03375159	EMPL BENEFITS	0200	81.76		81.76
9/14/2005	JV	BWR03380043	PAYROLL	0100	1,467.80		1,467.80
9/14/2005	JV	BWR03380162	EMPL BENEFITS	0200	110.77		110.77
9/14/2005	JV	BWR03380162	EMPL BENEFITS	0200	81.76		81.76
9/14/2005	JV	BWR03380162	EMPL BENEFITS	0200	668.00		668.00
10/17/2005	PV	60460000028	KIM ADAM	0300	49.00		49.00
11/10/2005	PV	60460000052	WILLIAM	0300	256.40		256.40
11/10/2005	PV	60460000052	WILLIAM	0300	237.50		237.50
12/9/2005	PV	60460000095	MONTGOME	0800	70.52		70.52
11/17/2005	PV	60460000073	WINNERS CIRCLE COMMU	0800	350.00		350.00

TOTAL		FISCAL YEAR 2005		495,745.41		495,745.41
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10/3/2005	JV	R003386	PAYROLL	100	1,555.90		1,555.90
10/12/2005	JV	R003391	PAYROLL	100	1,526.73		1,526.73
10/12/2005	JV	R003391	PAYROLL	100	29.17		29.17
10/26/2005	JV	R003396	PAYROLL	100	1,555.90		1,555.90
11/8/2005	JV	R003401	PAYROLL	100	1,555.90		1,555.90
11/21/2005	JV	R003405	PAYROLL	100	1,555.90		1,555.90
12/7/2005	JV	R003411	PAYROLL	100	1,555.90		1,555.90
12/21/2005	JV	R003417	PAYROLL	100	1,555.90		1,555.90
1/4/2006	JV	R003422	PAYROLL	100	1,555.90		1,555.90
1/18/2006	JV	R003429	PAYROLL	100	1,555.90		1,555.90
2/1/2006	JV	R003433	PAYROLL	100	1,555.90		1,555.90
2/15/2006	JV	R003438	PAYROLL	100	1,555.90		1,555.90
3/1/2006	JV	BWR03442043	PAYROLL	100	1,555.90		1,555.90
3/14/2006	JV	BWR03447043	PAYROLL	100	1,555.90		1,555.90
4/1/2006	JV	SAR03452066	PAYROLL	100	1,685.60		1,685.60
4/11/2006	JV	SAR03459062	PAYROLL	100	1,685.60		1,685.60
4/26/2006	JV	SAR03465055	PAYROLL	100	1,685.60		1,685.60
5/10/2006	JV	SAR03472052	PAYROLL	100	1,685.60		1,685.60
5/25/2006	JV	SAR03478054	PAYROLL	100	1,685.60		1,685.60
6/13/2006	JV	SAR03484048	PAYROLL	100	1,597.81		1,597.81
6/13/2006	JV	SAR03484048	PAYROLL	100	87.79		87.79
6/27/2006	JV	SAR03490049	PAYROLL	100	2,720.22		2,720.22
7/11/2006	JV	SAR03496049	PAYROLL	100	2,784.88		2,784.88
7/28/2006	JV	SA5030520	PAYROLL	100	1,685.60		1,685.60
7/28/2006	JV	SA5030520	PAYROLL	100	35.57		35.57
8/14/2006	JV	SA5110515	PAYROLL	100	1,685.60		1,685.60
8/29/2006	JV	SA5170513	PAYROLL	100	1,685.60		1,685.60
9/14/2006	JV	SA5240514	PAYROLL	100	889.12		889.12
9/14/2006	JV	SA5240514	PAYROLL	100	632.11		632.11
10/3/2005	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
10/3/2005	JV	R003386	EMPLOYEE BENEFITS	200	119.02		119.02
10/12/2005	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
10/12/2005	JV	R003391	EMPLOYEE BENEFITS	200	119.03		119.03
10/26/2005	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
10/26/2005	JV	R003396	EMPLOYEE BENEFITS	200	117.49		117.49
10/26/2005	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
11/8/2005	JV	R003396	EMPLOYEE BENEFITS	200	668.00		668.00
11/8/2005	JV	R003401	EMPLOYEE BENEFITS	200	119.03		119.03
11/21/2005	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
11/21/2005	JV	R003405	EMPLOYEE BENEFITS	200	117.50		117.50
11/21/2005	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
11/30/2005	JV	R003405	EMPLOYEE BENEFITS	200	668.00		668.00
12/7/2005	JV	R003411	EMPLOYEE BENEFITS	200	119.02		119.02
12/21/2005	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33

SUMMARY OF EXPENDITURES

DATE		PAYEE		TITLE I GROUP 101	TITLE I GROUP 102	TITLE II	TOTAL
12/21/2005	JV	R003417	EMPLOYEE BENEFITS	200	117.50		117.50
12/21/2005	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
1/4/2006	JV	R003417	EMPLOYEE BENEFITS	200	452.00		452.00
1/4/2006	JV	R003422	EMPLOYEE BENEFITS	200	119.03		119.03
1/18/2006	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
1/18/2006	JV	R003429	EMPLOYEE BENEFITS	200	117.49		117.49
1/18/2006	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
1/18/2006	JV	R003429	EMPLOYEE BENEFITS	200	668.00		668.00
2/1/2006	JV	R003433	EMPLOYEE BENEFITS	200	119.03		119.03
2/15/2006	JV	R003438	EMPLOYEE BENEFITS	200	117.49		117.49
2/15/2006	JV	BW	EMPLOYEE BENEFITS	200	105.33		105.33
2/15/2006	JV	R003438	EMPLOYEE BENEFITS	200	668.00		668.00
3/1/2006	JV	BWR03442163	EMPLOYEE BENEFITS	200	119.03		119.03
3/1/2006	JV	BWR03442163	EMPLOYEE BENEFITS	200	105.33		105.33
3/14/2006	JV	BWR03447161	EMPLOYEE BENEFITS	200	117.49		117.49
3/14/2006	JV	BWR03447161	EMPLOYEE BENEFITS	200	105.33		105.33
3/14/2006	JV	BWR03447161	EMPLOYEE BENEFITS	200	668.00		668.00
4/1/2006	JV	SAR03452217	EMPLOYEE BENEFITS	200	128.95		128.95
4/1/2006	JV	SAR03452217	EMPLOYEE BENEFITS	200	114.12		114.12
4/11/2006	JV	SAR03459199	EMPLOYEE BENEFITS	200	127.43		127.43
4/11/2006	JV	SAR03459199	EMPLOYEE BENEFITS	200	114.12		114.12
4/11/2006	JV	SAR03459199	EMPLOYEE BENEFITS	200	668.00		668.00
4/26/2006	JV	SAR03465189	EMPLOYEE BENEFITS	200	128.95		128.95
4/26/2006	JV	SAR03465189	EMPLOYEE BENEFITS	200	114.12		114.12
5/10/2006	JV	SAR03472185	EMPLOYEE BENEFITS	200	128.94		128.94
5/10/2006	JV	SAR03472185	EMPLOYEE BENEFITS	200	114.12		114.12
5/25/2006	JV	SAR03478181	EMPLOYEE BENEFITS	200	128.95		128.95
5/25/2006	JV	SAR03478181	EMPLOYEE BENEFITS	200	114.12		114.12
6/10/2006	JV	SAR03472185	EMPLOYEE BENEFITS	200	668.00		668.00
6/13/2006	JV	SAR03490168	EMPLOYEE BENEFITS	200	208.09		208.09
6/13/2006	JV	SAR03484169	EMPLOYEE BENEFITS	200	128.95		128.95
6/13/2006	JV	SAR03484169	EMPLOYEE BENEFITS	200	114.12		114.12
6/13/2006	JV	SAR03484169	EMPLOYEE BENEFITS	200	668.00		668.00
6/27/2006	JV	SAR03490168	EMPLOYEE BENEFITS	200	184.16		184.16
7/11/2006	JV	SAR03496170	EMPLOYEE BENEFITS	200	213.04		213.04
7/11/2006	JV	SAR03496170	EMPLOYEE BENEFITS	200	188.55		188.55
7/11/2006	JV	SAR03496170	EMPLOYEE BENEFITS	200	1,336.00		1,336.00
7/28/2006	JV	SA5030520	EMPLOYEE BENEFITS	200	131.68		131.68
7/28/2006	JV	SA5030520	EMPLOYEE BENEFITS	200	114.12		114.12
8/14/2006	JV	SA5110515	EMPLOYEE BENEFITS	200	128.96		128.96
8/14/2006	JV	SA5110515	EMPLOYEE BENEFITS	200	114.12		114.12
8/14/2006	JV	SA5110515	EMPLOYEE BENEFITS	200	668.00		668.00
8/26/2006	JV	SA5170513	EMPLOYEE BENEFITS	200	128.94		128.94
8/26/2006	JV	SA5170513	EMPLOYEE BENEFITS	200	114.12		114.12
9/14/2006	JV	SA5240514	EMPLOYEE BENEFITS	200	128.95		128.95
9/14/2006	JV	SA5240514	EMPLOYEE BENEFITS	200	114.12		114.12
12/2/2005	PV	60460000093	ADAM L B 11/9/2005	300	11.25		11.25
12/2/2005	PV	60460000097	KIM ADAM 11/05	300	74.21		74.21
12/2/2005	PV	60460000098	EVELYN A 11/16/05	300	62.08		62.08
12/2/2005	PV	60460000096	RICHARD 11/9-11/30	300	33.75		33.75
12/2/2005	PV	60460000097	KIM ADAM 11/05	300	11.25		11.25
12/7/2005	PV	60460000098	EVELYN A 11/16/05	300	11.25		11.25
2/23/2006	PV	60460000284	M DONALD	300	156.64		156.64
3/1/2006	PV	60460000302	NANCY PR	300	82.41		82.41
3/4/2006	PV	60460000293	JIM SHAN	300	43.61		43.61
3/8/2006	PV	60460000309	JOHN E C	300	79.21		79.21
3/14/2006	PV	60460000323	WYNELLE	300	183.34		183.34
2/21/2006	PV	60460000294	ADAM L B 046:2/3-2/6	400	392.20		392.20
3/8/2006	PV	60460000294	ADAM L B	400	654.91		654.91
3/8/2006	PV	60460000294	ADAM L B 046:2/3-2/6	400	20.00		20.00
7/24/2006	PV	60460000703	ADAM L B	400	633.59		633.59
7/24/2006	PV	60460000703	ADAM L B	400	842.94		842.94
7/24/2006	PV	60460000703	ADAM L B	400	525.00		525.00
8/11/2006	PV	60460000703	ADAM L B	400	(7.80)		(7.80)
8/11/2006	PV	60460000703	ADAM L B	400	(500.00)		(500.00)
1/25/2006	PV	60460000170	Winners Circle Communicat	800	3,488.10		3,488.10
2/1/2006	PV	60460000254	Roly Poly	800	348.00		348.00
2/13/2006	PV	60460000273	Montgomery Deli	800	64.62		64.62

SUMMARY OF EXPENDITURES

DATE		PAYEE		TITLE I GROUP 101	TITLE I GROUP 102	TITLE II	TOTAL
3/1/2006	PV	60460000306	Montgomery Deli	800	87.88		87.88
3/16/2006	PV	60460000329	WINNERS	800	3,171.00		3,171.00
3/22/2006	PV	60460000330	WINNERS	800	3,171.00		3,171.00
3/31/2006	PV	60460000346	LEGISLAT	800	75.00		75.00
5/23/2006	PV	60460000497	WTTO TV	800	2,100.00		2,100.00
5/27/2006	PV	60460000500	WABM	800	1,690.00		1,690.00
5/27/2006	PV	60460000501	WIAT TV	800	2,082.50		2,082.50
6/16/2006	PV	60460000510	WINNERS	800	9,513.00		9,513.00
6/16/2006	PV	60460000511	COX RADI	800	2,200.00		2,200.00
6/16/2006	PV	60460000517	WDFX TV	800	175.00		175.00
6/20/2006	PV	60460000534	LEGISLAT	800	60.00		60.00
6/20/2006	PV	60460000539	THE UNIV	800	375.00		375.00
7/6/2006	PV	60460000549	CITADEL	800	2,078.25		2,078.25
7/6/2006	PV	60460000550	CUMULUS	800	1,770.00		1,770.00
7/6/2006	PV	60460000551	CITADEL	800	3,300.00		3,300.00
7/6/2006	PV	60460000554	WDRM-FM	800	4,605.00		4,605.00
7/12/2006	PV	60460000552	FOX TELE	800	26,245.00		26,245.00
7/15/2006	PV	60460000573	BENEDEK	800	7,939.00		7,939.00
7/19/2006	PV	60460000696	CLEAR CH	800	1,560.00		1,560.00
7/19/2006	PV	60460000697	BRIMINGH	800	13,557.50		13,557.50
7/19/2006	PV	60460000698	COX RADI	800	4,635.00		4,635.00
7/19/2006	PV	60460000699	WRJM TV	800	390.00		390.00
7/19/2006	PV	60460000700	THE BOAR	800	1,000.00		1,000.00
7/19/2006	PV	60460000701	LOCKWOOD	800	1,900.00		1,900.00
7/19/2006	PV	60460000702	WTXT-FM	800	1,547.85		1,547.85
7/20/2006	PV	60460000553	WHNT TV	800	22,800.00		22,800.00
7/20/2006	PV	60460000660	WOODS CO	800	680.00		680.00
7/20/2006	PV	60460000661	BIG RIVE	800	1,224.00		1,224.00
7/20/2006	PV	60460000667	WAKA-TV8	800	4,190.00		4,190.00
7/20/2006	PV	60460000668	WRSR-FM	800	2,610.00		2,610.00
7/20/2006	PV	60460000669	URBAN RA	800	1,575.90		1,575.90
7/20/2006	PV	60460000670	WDHN TV	800	1,530.00		1,530.00
7/20/2006	PV	60460000672	CLEAR CH	800	2,275.00		2,275.00
7/21/2006	PV	60460000662	WINNERS	800	3,171.00		3,171.00
7/21/2006	PV	60460000663	CLEAR CH	800	810.00		810.00
7/21/2006	PV	60460000664	WOOF RAD	800	1,026.00		1,026.00
7/21/2006	PV	60460000708	LIBERTY	800	29,291.00		29,291.00
7/22/2006	PV	60460000540	CUMULUS	800	730.00		730.00
7/22/2006	PV	60460000544	WAFF TV	800	13,575.00		13,575.00
7/22/2006	PV	60460000545	WOODS CO	800	460.00		460.00
7/22/2006	PV	60460000546	MEDIA GE	800	11,050.00		11,050.00
7/22/2006	PV	60460000556	WWMG-FM	800	4,046.00		4,046.00
7/22/2006	PV	60460000666	CUMULUS	800	4,230.00		4,230.00
7/22/2006	PV	60460000671	WRKH-FM	800	6,630.00		6,630.00
7/22/2006	PV	60460000673	RAYCOM M	800	175.00		175.00
7/22/2006	PV	60460000674	GULF SOU	800	1,423.75		1,423.75
7/22/2006	PV	60460000679	HUNTSVIL	800	3,000.00		3,000.00
7/25/2006	PV	60460000715	WJTC TV	800	1,400.00		1,400.00
7/25/2006	PV	60460000716	WPMI TV	800	14,760.00		14,760.00
7/25/2006	PV	60460000718	TV ALABA	800	20,965.00		20,965.00
7/25/2006	PV	60460000719	LIN TELE	800	5,650.00		5,650.00
7/25/2006	PV	60460000720	CHANNEL	800	939.25		939.25
7/25/2006	PV	60460000721	CUMULUS	800	5,310.00		5,310.00
8/7/2006	PV	60460000698	COX RADI	800	(4,635.00)		(4,635.00)
8/7/2006	PV	60460000701	LOCKWOOD	800	(1,900.00)		(1,900.00)
8/7/2006	PV	60460000719	LIN TELE	800	(5,650.00)		(5,650.00)
8/7/2006	PV	60460000721	CUMULUS	800	(5,310.00)		(5,310.00)
8/7/2006	PV	60460000723	WACHOVIA	800	4,635.00		4,635.00
8/7/2006	PV	60460000724	WHDF	800	1,900.00		1,900.00
8/7/2006	PV	60460000725	CUMULUS	800	5,310.00		5,310.00
8/11/2006	PV	60460000717	WAAY-TV	800	15,760.00		15,760.00
8/30/2006	PV	60460000774	WINNERS	800	6,342.00		6,342.00
9/7/2006	PV	60460000726	LIN TELE	800	5,650.00		5,650.00
9/15/2006	PV	60460000801	J GARY B	800	3,000.00		3,000.00
9/20/2006	PV	60460000801	J GARY B	800	(3,000.00)		(3,000.00)
10/2/2006	PV	70460000003	J GARY B	800	3,000.00		3,000.00
10/5/2006	PV	70460000051	WINNERS	800	3,171.00		3,171.00
10/10/2006	PV	70460000056	LEGISLAT	800	75.00		75.00

SUMMARY OF EXPENDITURES

DATE		PAYEE		TITLE I	TITLE I	TITLE II	TOTAL	
				GROUP 101	GROUP 102			
1/27/2006	PV	60460000248	ADAM L B (Registration)	900	325.00		325.00	
8/11/2006	PV	60460000703	ADAM L B	900	500.00		500.00	
8/18/2006	PV	60460000758	DELTA QU	900	55.00		55.00	
7/1/2006	PV	60460000524	ST CLAIR	1100		186,775.00	186,775.00	
7/1/2006	PV	60460000525	BLOUNT C	1100		162,675.00	162,675.00	
7/1/2006	PV	60460000526	MONROE C	1100		192,800.00	192,800.00	
7/1/2006	PV	60460000527	CALHOUN	1100		301,250.00	301,250.00	
7/1/2006	PV	60460000528	CRENSHAW	1100		108,450.00	108,450.00	
7/6/2006	PV	60460000561	PIKE CO	1100		174,725.00	174,725.00	
7/6/2006	PV	60460000562	COVINGTO	1100		156,650.00	156,650.00	
7/6/2006	PV	60460000563	MARION C	1100		120,500.00	120,500.00	
7/6/2006	PV	60460000564	LIMESTON	1100		168,700.00	168,700.00	
7/6/2006	PV	60460000565	LAWRENCE	1100		192,800.00	192,800.00	
7/6/2006	PV	60460000566	PERRY CO	1100		90,375.00	90,375.00	
7/6/2006	PV	60460000567	COOSA CO	1100		84,350.00	84,350.00	
7/6/2006	PV	60460000568	DALE COU	1100		132,550.00	132,550.00	
7/6/2006	PV	60460000569	LAUDERDA	1100		210,875.00	210,875.00	
7/20/2006	PV	60460000650	BALDWIN	1100		307,275.00	307,275.00	
7/20/2006	PV	60460000651	BUTLER C	1100		144,600.00	144,600.00	
7/20/2006	PV	60460000652	CLARKE C	1100		198,825.00	198,825.00	
7/20/2006	PV	60460000653	CULLMAN	1100		337,400.00	337,400.00	
7/20/2006	PV	60460000654	HOUSTON	1100		186,775.00	186,775.00	
7/20/2006	PV	60460000655	TALLAPOO	1100		150,625.00	150,625.00	
7/20/2006	PV	60460000656	WILCOX C	1100		174,725.00	174,725.00	
7/21/2006	PV	60460000657	WINSTON	1100		132,550.00	132,550.00	
7/22/2006	PV	60460000685	FRANKLIN	1100		150,625.00	150,625.00	
7/22/2006	PV	60460000686	LOWNDES	1100		78,325.00	78,325.00	
7/22/2006	PV	60460000687	MORGAN C	1100		295,225.00	295,225.00	
7/21/2006	PV	60460000706	MADISON	1100		542,250.00	542,250.00	
8/8/2006	PV	60460000727	CONECUH	1100		174,725.00	174,725.00	
8/8/2006	PV	60460000728	DALLAS C	1100		204,850.00	204,850.00	
8/8/2006	PV	60460000729	FAYETTE	1100		186,775.00	186,775.00	
8/8/2006	PV	60460000730	HALE COU	1100		90,375.00	90,375.00	
8/8/2006	PV	60460000731	HENRY CO	1100		84,350.00	84,350.00	
8/8/2006	PV	60460000732	JACKSON	1100		259,075.00	259,075.00	
8/8/2006	PV	60460000733	MACON CO	1100		102,425.00	102,425.00	
8/8/2006	PV	60460000734	MARENGO	1100		156,650.00	156,650.00	
8/8/2006	PV	60460000735	PICKENS	1100		120,500.00	120,500.00	
8/8/2006	PV	60460000736	TALLAPOO	1100		18,075.00	18,075.00	
8/8/2006	PV	60460000737	TUSCALOO	1100		361,500.00	361,500.00	
8/8/2006	PV	60460000738	WASHINGT	1100		216,900.00	216,900.00	
8/11/2006	PV	60460000739	COFFEE C	1100		204,850.00	204,850.00	
8/11/2006	PV	60460000740	LEE COUN	1100		156,650.00	156,650.00	
8/14/2006	PV	60460000746	AUTAUGA	1100		120,500.00	120,500.00	
8/17/2006	PV	60460000749	BUTLER C	1100		6,025.00	6,025.00	
11/20/2006	PV	70460000178	BARBOUR	1100		1,628.28	1,628.28	
11/20/2006	PV	70460000179	CHEROKEE	1100		144,600.00	144,600.00	
11/20/2006	PV	70460000180	DEKALB C	1100		632,430.00	632,430.00	
11/21/2006	PV	70460000184	COLBERT	1100		234,975.00	234,975.00	
11/21/2006	PV	70460000185	LAMAR CO	1100		328,320.00	328,320.00	
11/22/2006	PV	70460000187	BIBB COU	1100		121,710.00	121,710.00	
11/22/2006	PV	70460000188	BULLOCK	1100		102,425.00	102,425.00	
11/22/2006	PV	70460000189	CHILTON	1100		120,500.00	120,500.00	
11/22/2006	PV	70460000190	CHOCTAW	1100		431,845.00	431,845.00	
11/22/2006	PV	70460000191	CLEBURNE	1100		108,450.00	108,450.00	
11/22/2006	PV	70460000192	ELMORE C	1100		180,750.00	180,750.00	
11/28/2006	PV	70460000193	GENEVA C	1100		162,675.00	162,675.00	
11/28/2006	PV	70460000194	ESCAMBIA	1100		186,775.00	186,775.00	
11/29/2006	PV	70460000200	GREENE C	1100		96,400.00	96,400.00	
11/29/2006	PV	70460000201	CHAMBERS	1100		292,060.00	292,060.00	
11/29/2006	PV	70460000202	RUSSELL	1100		120,500.00	120,500.00	
11/29/2006	PV	70460000203	JEFFERSO	1100		1,235,125.00	1,235,125.00	
11/29/2006	PV	70460000204	MARSHALL	1100		241,000.00	241,000.00	
11/29/2006	PV	70460000205	ETOWAH C	1100		277,150.00	277,150.00	
TOTAL				FISCAL YEAR 2006	353,585.62	-	12,466,218.28	12,819,803.90

FEDERAL REVENUE SUMMARY

	TITLE I GROUP 101	TITLE I GROUP 102	TITLE II	STATE MATCH	TOTAL
TITLE II - REPORTED BY FISCAL YEAR					
Federal Funds			35,866,513.00		35,866,513.00
State Matching Funds				1,791,922.00	1,791,922.00
Interest Earned - Fed			1,428,210.37		1,428,210.37
Interest Earned - State				75,635.90	75,635.90
Transfer to Governors Office - Title II Funds			(12,000,000.00)		(12,000,000.00)
Transfer to Governors Office - Allocable interest earned			(142,839.17)		(142,839.17)
FY 2006 FUNDS AVAILABLE			25,151,884.20	1,867,557.90	27,019,442.10

TITLE II REPORTING WORKSHEET
10/1/2005 - 9/30/2006

ALLOCATION	TOTAL	95% FED	5% STATE	SUM
EXPENDITURES	12,466,218.28	11,842,907.37	623,310.91	12,466,218.28
		PREVIOUSLY REPORTED	CURRENT EXPEND	TOTAL
A. TOTAL OUTLAYS		1,493.61	12,466,218.28	12,467,711.89
H. RECIPIENT OUTLAYS		74.68	623,310.91	623,385.59
I. TOTAL RECIPIENT SHARE		74.68	623,310.91	623,385.59
J. FED SHARE OF OUTLAYS		1,418.93	11,842,907.37	11,844,326.30
N. TOTAL FED SHARE		1,418.93	11,842,907.37	11,844,326.30
TOTAL FED FUNDS AUTHORIZED				37,294,723.37
LESS: TITLE II TRANSFER TO GOVERNORS OFFICE - COURT ORDERED				-12,000,000.00
LESS: ALLOCABLE INTEREST EARNED - COURT ORDERED				-142,839.17
O. TOTAL FED FUNDS AUTHORIZED				25,151,884.20
P. UNOBLIGATED BALANCE				13,307,557.90

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) CASE NO. 2:06-cv-392-WKW
)
The STATE OF ALABAMA and)
NANCY L. WORLEY, Secretary of State,)
in her official capacity,)
)
Defendants.)

MEMORANDUM OPINION AND ORDER

On October 29, 2002, HAVA¹ was signed into law. As of this date, the State of Alabama is in violation of Section 303 with respect to the statewide computerized voting registration list required by HAVA. The statutory deadline for compliance was January 1, 2004. Alabama sought and received a two-year extension. Alabama likewise failed to meet the subsequent January 1, 2006 deadline, which passed with no credible effort in place to remedy the violation.² The responsibility for this lies squarely on Defendant Secretary of State, Nancy L. Worley, Alabama's chief elections official.³ Having in a prior order enjoined Defendants Worley and the State of Alabama from further violations, the Court has found it necessary, upon Defendant Worley's confessed failure to discharge the duties of her elected office, and her refusal to accept any timeline for HAVA compliance other

¹ The Help America Vote Act of 2002, Pub. L. No. 107-252, 116 Stat. 1666 (2002). Section 303 of HAVA requires states to implement a single, uniform, official, centralized, interactive computerized statewide voter registration list in elections for federal office.

² The November 2, 2006 general election will likewise find Alabama non-compliant.

³ Ala. Code § 17-1-8(a).

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than her own,⁴ to appoint a Special Master to complete the task in a timely and orderly manner. The purpose of this Memorandum Opinion and Order is to establish the factual and legal basis for the appointment of a Special Master, to delineate the role and responsibilities incumbent upon the office, and to name the Special Master.

I. BACKGROUND

Although Defendant Worley admitted from the beginning of this litigation that the Defendants were non-compliant, a brief review of the undisputed facts, and a description of the technology-intensive project at hand, will be helpful in the analysis of the need for a Special Master. Alabama has a diffuse electoral system, loosely managed at the state level by the Secretary of State, and at the county level by elected probate judges, who are the chief elections officials of the counties;⁵ and by elected circuit clerks⁶ and appointed registrars.⁷ The responsibility for developing and maintaining voter registration lists has traditionally been a local function, resulting in over thirty voter registration systems in operation in the state. (See Doc. # 35-11 Defs.' Evid. Subm.) In 1991, ALVIN, a statewide computerized system, was designed in-house in an attempt to standardize these multifarious systems.⁸ Currently being used by thirty-eight counties as a primary voter registration

document
local
30
systems

⁴ At the July 20 hearing, Ms. Worley, through her attorney, indicated that her proposed timeline of 552-618 days could be reduced by sixty to ninety days, contingent on the actions of others over whom the Secretary of State has no control. She offered, in good faith but against the advice of counsel, to accept the somewhat shortened time frame. As more fully explained herein, the Court found it inadvisable to accept Ms. Worley's offer. (See Doc. # 38.)

⁵ Ala. Code § 17-1-8(a).

⁶ See Ala. Code § 17-6-1 (appointing board); § 17-4-131 (notification of disqualification), § 17-10-2 (absentee election manager); and § 17-14-1 (canvassing).

⁷ See generally § 17-4-120, *et seq.* (voter registration).

⁸ ALVIN is an acronym for Alabama Voter Information Network. (See Doc. # 31-2 Palmer Decl.)

base, (*see* Doc. # 31-2 Palmer Decl.), ALVIN is hopelessly outdated and completely useless to larger counties.⁹

An important component of HAVA was allocation to the states of funds to implement HAVA. Alabama's portion was \$41,350,962, which was received by the Secretary of State's Office in late 2003 or 2004.¹⁰ According to Defendant Secretary of State, \$12,000,000 of that budget was allocated to completion of the voter registration system.¹¹ The task of developing the statewide voter registration system is almost entirely technical. The voter registration system is statutorily required to be single, uniform, official, centralized, interactive, and computerized.¹² The technology must actively interface with the databases of the Alabama Department of Public Health (vital statistics); Alabama Administration Office of Courts (records of felony convictions); and the Alabama Department of Public Safety (drivers license records and a collateral interface with the Social Security Administration). (*See generally* Doc. # 3-2 McCormick Decl.) The system must accommodate daily updates from sixty-seven counties, as well as the regular monitoring of the interfaces, for the system to be accurate and dependable. (*Id.*; *see also* Doc. # 32-2 Fuhrmeister Aff.) Perhaps the most daunting technological issue is the transfer of existing data from ALVIN and all

⁹ For instance, Jefferson County, with the largest number of registered voters, has its own system to accommodate what will be 156 different ballots in the upcoming 2006 general election. Mobile County, the second or third largest county by number of voters registered, will have thirty-five ballot styles in the general election. *See* Doc. #34-4 Alabama Probate Judges Association's ("APJA") Resp.) ALVIN is not a voter registration option for these and other counties. Any HAVA-compliant system will be required to accommodate the needs of all counties, including the accurate uploading of existing voter registration data from local databases. (*See* Doc. # 32-2 Fuhrmeister Aff.)

¹⁰ The record does not reflect the exact date or dates of receipt, but funds were expended in late 2003. *See* Doc. # 52 Def.'s Accounting.)

¹¹ The balance is to be used for other voting system upgrades, including voter equipment. According to the representations of the parties, Alabama is HAVA compliant in this respect.

¹² 42 U.S.C. § 15483.

other local systems into the new system. (*See id.*; Doc. # 32-2 Fuhrmeister Aff.) The vendor ultimately engaged will be responsible for design and implementation of the technology and distribution of the computer hardware to be disbursed in the counties. An indication of the technical complexity of the project is the size of the request for proposals issued by the Secretary of State, which runs to twenty-six single-spaced pages. (*See* Doc. # 3-4 McCormick Decl., Ex. B.)

The State of Alabama has a purchasing process which requires services to be engaged separately from the purchase of equipment.¹³ The statutory process necessarily contributes to time constraints, which will, if the statutory scheme is followed, extend the timeline for completion. *See, e.g.,* Ala. Code § 29-2-41 (mandating the time of review, not to exceed 45 days, by the Contract Review Permanent Legislative Oversight Committee, of all contracts for goods and services subject to competitive bidding).

II. PROCEDURAL HISTORY

On May 1, 2006, Plaintiff United States of America commenced this action in this Court alleging that Defendants State of Alabama and Nancy L. Worley, in her official capacity as Secretary of State, had failed to comply with their responsibilities under Section 303 of HAVA to implement a single, uniform, official, centralized, interactive computerized statewide voter registration list in elections for federal office. A hearing was held on May 29, 2006, at which the defendants admitted non-compliance and substantial evidence was admitted supporting the position of the United States.

By Order dated June 7, 2006, this Court declared that Defendants were not in compliance with HAVA with regard to implementing a single, uniform, official, centralized, interactive computerized statewide voter registration list in elections for federal office, and entered a declaratory

¹³ (HAVA Plan Hr'g Tr. 23-26, July 20, 2006.)

judgment and preliminary injunction against Defendants. The Court ordered the defendants to develop and submit a HAVA compliance plan.

A hearing on the proposed plan and objections was held on July 20, 2006. The timeline contained in defendants' proposed plan to achieve HAVA compliance before the 2008 primary election contemplated a start date of August 1, 2006, but not a deadline. The Plaintiff objected to the defendants' timeline and requested the appointment of a Special Master to administer the HAVA compliance plan. Defendant Worley took the position that HAVA compliance could not be achieved any sooner than her proposed 552-618 days. *See supra* note 4. She further advised the Court through counsel that she would prefer the appointment of a Special Master rather than accept a significantly shortened timeline for compliance.

By Order dated July 21, 2006, the Court ordered that HAVA compliance must be achieved on or before August 31, 2007. This deadline was necessary to bring Alabama into HAVA compliance before the 2008 primary election. In light of the Secretary of State's position that she could not attain HAVA compliance within the necessary time period, the Court's remedial arsenal was limited to one viable alternative. The Court accordingly gave notice of its intent to appoint a Special Master to be responsible for bringing Defendant State of Alabama into complete compliance with Section 303 of HAVA.¹⁴ The parties were further ordered to respond to the notice and to file proposed orders. An opportunity for objections and comments to the responses was given to the

¹⁴ Without question, the Court has the inherent power to appoint a master to assist in administering remedial injunctive relief. "Beyond the provisions of [Fed. R. Civ. P. 53] for appointing and making references to Masters, a Federal District Court has the 'inherent power to supply itself with this instrument for the administration of justice when deemed by it essential.'" *Schwimmer v. United States*, 232 F.2d 855, 865 (8th Cir. 1956) (quoting *Ex parte Peterson*, 253 U.S. 300, 312-13 (1920)); *see also Ruiz v. Estelle*, 679 F.2d 1115 (5th Cir. 1982); *United States v. Connecticut*, 931 F. Supp. 974 (D. Conn. 1996). Rule 53 of the Federal Rules of Civil Procedure explicitly contemplates reliance on masters "when a complex decree requires complex policing, particularly when a party has proved resistant or intransigent." Fed. R. Civ. P. 53 advisory committee's notes, 2003 amends.

parties and amici curiae. Two movants filed motions to intervene in order to make comments on the appointment of the Special Master.¹⁵

A hearing on the proposed orders, objections, and comments relating to the appointment of a Special Master was held on August 2, 2006. The Court heard from Kenneth D. Wallis, Chief Legal Advisor to the Office of the Governor for the State of Alabama, who conveyed the Governor's willingness to accept the appointment as Special Master. The Court permitted Edward Still, counsel for movants Joe Turnham and Joe Reed, to make a statement on the record, to which the parties responded, regarding the appointment. Nancy Worley, in her personal capacity, also made a statement. However, neither Mr. Still nor Ms. Worley suggested a candidate for the position of Special Master, although Ms. Worley assured the Court she could work with whomever was appointed Special Master, including the Governor. (See Special Master Hr'g Tr. 30-33, Aug. 2, 2006.)

III. DISCUSSION

From the inception of this case until the July 20 hearing, the Court was of the opinion that Defendant Worley, who was elected to a constitutional office and charged, among other duties, to administer the election laws of the State, should be compelled to fulfill her duty. Though her failure as it related to HAVA was admitted and without credible excuse, on balance the Court felt Defendant Worley should be given a structured opportunity to complete her public charge. The only impediment identified at the July 20 hearing was her proposed timeline for completion, which left

¹⁵ Joe Turnham, in his individual capacity and as Chair of the State Democratic Executive Committee of Alabama, and Joe L. Reed, in his individual capacity and as Chair of the Alabama Democratic Conference, filed motions to intervene. The parties and amici unanimously opposed the intervention. By Order (Doc. # 58) dated August 2, 2006, the Court denied the motions to intervene but made provisions for the movants as interested persons to be heard through counsel at the hearing on the appointment of the Special Master. See Memorandum Opinion, Doc. # 63, for the rationale for denial of intervention.

compliance by the 2008 presidential primary largely in doubt.¹⁶ Given the opportunity to adopt a considerably shortened timeline, defendant Worley confirmed the representations of her counsel that she could commit to no more than a sixty or ninety day reduction of her timeline “and that depends on a number of factors and circumstances beyond her control.” (HAVA Plan Hr’g Tr. 56.) Moreover, this “commitment” was against the advice of her counsel. (*Id.*) It was at this point that the need for a special master reached critical mass.

Confronted with this stance, the Court considered the undisputed historical timeline of Defendant Worley’s HAVA activities.

On June 13, 2003, Alabama passed the HAVA enabling legislation.¹⁷ Under the provisions of § 17-25-2, the HAVA Committee was formed to advise Defendant Worley on the development of the state plan and to make recommendations on all aspects of the plan. In the meantime, Defendant Worley issued a request for proposals (“RFP”) for a new voter registration system on August 12, 2003. (Doc. # 3-2 McCormick Decl. ¶ 7.) On September 10, 2004, a full thirteen months later, Defendant Worley and the HAVA Committee heard vendor proposals. (Doc. # 34-2 APJA Resp.) Deliberating in an admirably non-partisan fashion, the HAVA Committee unanimously recommended a vendor to Defendant Worley on December 14, 2004.¹⁸ Under the statutory scheme, the ultimate decision rested with the Secretary of State. On May 27, 2005, after five and one-half months, Defendant Worley chose another vendor, ignoring the unanimous recommendation of the

¹⁶ At present, the scheduled date for the 2008 presidential primary is February 5, 2008.

¹⁷ Ala. Code § 17-25-1 *et seq.*

¹⁸ (*See* Doc. # 34-2 APJA Resp. Exs.) The APJA also unanimously recommended the HAVA Committee’s choice. *See id.*

HAVA Committee and the APJA. (*See* Doc. # 3-2 McCormick Decl. ¶ 9.) Three months later, in August 2005, Defendant Worley terminated negotiations with her choice of vendor and issued a revised RFP requesting further bids. (*Id.* ¶¶ 31-32.) As of the filing of this action in May 2006, for aught that appears in the record, no HAVA-compliant system was being developed.

It was against this factual backdrop that the decision to appoint a Special Master was made.¹⁹ In view of her history, the Court simply lacks confidence that Defendant Worley can or will achieve HAVA compliance before the 2008 federal primary election. The Court has repeatedly expressed reluctance to intervene in the affairs of the Secretary of State. (*See, e.g.*, Doc. # 33; Special Master Hr'g Tr. 30.) The Court must now acknowledge, reluctantly still, that it has no other viable alternative than the appointment of a special master to achieve full and timely HAVA compliance.

IV. ORDER APPOINTING SPECIAL MASTER

Because the running of elections is an essential administrative state function which cannot, and should not, be delegated to a private entity, the Court agrees that the appointment must be made to a State official. The Governor, as the chief executive officer of the State, is the most appropriate official, and has indicated, through his legal advisor, a willingness to accept the appointment. With the parties and amici in agreement on the appointment, and in light of the fact that no other interested person suggested another candidate for the appointment, the Court will appoint the Governor of the State of Alabama, the Honorable Bob Riley, as the Special Master responsible for the implementation of a HAVA-compliant voter registration system in the State of Alabama.

¹⁹ An after-the-fact consideration favoring the appointment is the agreement of the parties and amici on the appointment of Governor Bob Riley to the position.

As stated in open court, Governor Riley is the official who can marshal the most governmental resources in the shortest time to apply to the task. He has substantial influence over subordinate state officials whose cooperation is essential.²⁰ Further, the governor has substantial staffing capabilities to apply to the project. An objection raised by proposed intervenors is the Governor's lack of expertise in voting matters. It is not seriously contended that the Governor will personally manage the project. Expertise can be acquired, which is the Court's expectation with respect to the project. Moreover, the Governor is in the best position to propose and push legislation, should that become necessary. Finally, Governor Riley has expressed his desire to consult with the HAVA Committee and other election stakeholders in the process.

This appointment is made pursuant to the inherent authority of the Court and Rule 53 of the Federal Rules of Civil Procedure. *See, supra*, footnote 14. As Rule 53 requires, the Court states the appointment, duties, and responsibilities of the Special Master.

1. Appointment of Special Master

In furtherance of the injunctive orders heretofore entered in this action (Doc. # 16), the Court hereby appoints Bob Riley, in his official capacity as Governor of the State of Alabama, as Special Master to develop and implement a single, uniform, official, centralized, interactive computerized statewide voter registration list in elections for federal office which complies with Section 303 of the Help America Vote Act of 2002, 42 U.S.C. § 15483. It is ORDERED that the Special Master must "proceed with all reasonable diligence," Rule 53(b)(2), and achieve HAVA compliance on or before August 31, 2007. The Governor shall serve as Special Master without compensation.

²⁰ A partial list would include the Department of Public Safety, the Alabama Department of Public Health, to a lesser extent the Alabama Office of Courts, and Registrars, who have been found to be state agents. (*See* Doc. # 16.)

2. Limited Role as Chief Election Official

The Special Master shall be the Chief Election Official of the State of Alabama, as defined in Section 10 of the National Voter Registration Act of 1993, 42 U.S.C. § 1973gg-8 and in Section 253(e) of HAVA, 42 U.S.C. § 15403(e), for the purposes of implementing Section 303 of the Help America Vote Act of 2002, 42 U.S.C. § 15483. The Alabama Office of the Secretary of State is expressly divested of such authority, but the Secretary of State shall otherwise remain the chief election official for the State of Alabama.

3. Duty and Authority

The Special Master shall have the duty and authority to take all actions necessary and proper to ensure the development and implementation of the single, uniform, official, centralized, interactive computerized statewide voter registration list for elections for federal office described in Paragraph 1 of this Order. If necessary, at an appropriate time, the Court will revisit whether any additional enforcement mechanism, *e.g.*, rulemaking, is required. Prior to that time, the Secretary of State shall not promulgate any rule impacting the new voter registration system without the express consent of the Special Master.

4. Office of the Special Master

The Office of the Special Master, independent of the Alabama Office of the Secretary of State, is hereby established and shall be comprised of the Special Master and such staff as he may acquire pursuant to Paragraph 5 of this Order.

5. Staff of the Office of the Special Master

The Special Master shall have the authority to acquire such staff as he deems necessary and to delineate the terms, conditions, duties, and compensation of their employment.

6. Access to Records

By previous Order, the Secretary has been directed "to compile, organize, and identify all HAVA records relating to development of the statewide voter list." (Doc. # 38 at 6.) The Special Master or his designees shall have full access to these records, and to other HAVA-related records in the possession of Alabama counties and other political subdivisions, except those records in the possession of the Alabama Office of the Attorney General which are subject to a claim of either attorney work product or attorney-client privilege. Should the Special Master require access to any material that the Alabama Office of the Attorney General claims is subject to such privilege, he shall have the power to request that the Court examine such material *in camera* to determine whether the requested material is exempt from disclosure to the Special Master.

Depending on the nature and volume of the records, and in the sole discretion of the Special Master, these records may be accessible to the Special Master in the Secretary of State's Office or they may be transferred to the Special Master's office. The Special Master will protect those portions of the record which are confidential or which contain vendor trade secrets. Once the Special Master has been discharged by the Court, the records he received from the Secretary of State and those that he accumulated in his work shall be transferred to the Secretary of State.

7. HAVA Funds

All funds appropriated by the United States Congress under the Help America Vote Act of 2002 and that are dedicated to the development and implementation of the voter registration list delineated in Paragraph 1 of this Order, together with all interest income earned thereon, shall be at the disposal of the Special Master for the implementation of this Order. The Special Master shall be responsible for compliance with the requirements of Section 902 of the Help America Vote Act of

2002, 42 U.S.C. § 15542, and may requisition such staff as necessary from agencies of the State of Alabama to aid him in compliance with such requirements. The State of Alabama shall be responsible for paying all staff fees and expenses. No funds appropriated by the United States Congress in accordance with the Help America Vote Act of 2002 may be utilized in any way toward the compensation of the Special Master's staff without the express approval of this Court.

Notwithstanding the provisions of Ala. Code § 17-25-1, the Special Master is hereby authorized to establish a separate trust fund in the Alabama State Treasury known as the "Help America Vote Act – Voter Registration Fund" (hereinafter HAVA-VRF). Payments from the HAVA-VRF are not subject to dual approval before disbursements are made. Based on the Secretary of State's accounting, filed pursuant to this Court's July 21, 2006 Order, that amount is \$ 12,000,000 plus \$ 420,932.38 interest (less certain amounts for prior expenditures on the voter registration system).²¹

Any funds that are transferred to the HAVA-VRF and not expended by the Special Master in the development and implementation of the voter registration system will revert back to the Help America Vote Fund once the new voter registration system is completed.

8. Communications with Court

The Special Master shall have the authority to conduct any contacts, including *ex parte* communications, he deems necessary with the Court, expressly to include petitioning the Court for additional orders necessary to implement the duties and responsibilities delineated in this Order.

²¹ The Secretary of State asked for and received an additional 30 days from August 2, 2006, to complete this aspect of her accounting.

9. Communications with Counsel

The Special Master shall have the authority to communicate directly with agencies of the State of Alabama and its counties and political subdivisions other than the Alabama Office of the Attorney General subject to no prohibition on *ex parte* contacts. The Special Master shall not conduct *ex parte* contacts with counsel representing either party to this action, but shall have the authority to conduct consultative proceedings, independent of the Court, at which counsel for both parties are present, as he deems necessary. Such consultative proceedings may, at the direction of the Special Master, be conducted on the record and be taken down stenographically or in any other manner authorized by Fed. R. Civ. P. 30(b)(2). The Special Master is authorized to conduct such proceedings by telephone, videoconference, or other remote means, and the term "present" shall be construed to include being connected by telephone, videoconference, or other such remote means as the Special Master may deem proper.

10. Recordkeeping

The Special Master shall maintain complete and accurate records of his acts and doings, which shall be delivered to the Secretary of State at the conclusion of the project.

11. Special Master Reports

The Special Master shall file a report with the Clerk of the Court on the first Tuesday of every month, beginning September 2006, detailing the progress that has been made on the implementation of the single, uniform, official, centralized, interactive computerized statewide voter registration list in elections for federal office delineated in Paragraph 1. The reports shall be deemed matters of public record.

1ST
Tues
every
month

12. Time Constraints

The prime force moving this case is time and the shortness of it. The Court suggested benchmarks for completion of implementation, including training and testing, in its July 21 Order. (Doc. # 38.) The Special Master is DIRECTED to review those benchmarks with instructions to consider the same and make reference to them in his initial report in September 2006 as to their reasonableness.

13. Scope of Injunction

The injunction entered on May 29, 2006, in open court and memorialized in the June 7, 2006 Order shall remain in full force and effect as against any state agency, department, employee or other agent, and all persons acting in concert with them, with respect to HAVA compliance.

It is so ORDERED this 8th day of August, 2006.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE

HAVA Funds found by Secretary of State Nancy Worley that should be spent from Title 1 HAVA Funds						
<u>Voucher Number</u>	<u>Warrant Number</u>	<u>Date</u>	<u>Payee</u>	<u>Amount</u>	<u>Fund</u>	<u>Explanation</u>
50460000196	50181188	1/7/2005	J. Gary Brown	\$ 5,000.00	1133	Voter Registration TV Announcements
50460000201	50181187	1/7/2005	Ray Styles	\$ 127.63	1133	Travel Claim
50460000214	50224473	2/1/2005	Joe Duck	\$ 56.25	1133	Travel Claim
50460000215	50224475	2/1/2005	Michael A. Smith	\$ 63.75	1133	Travel Claim
50460000237	50258240	2/18/2005	Betty Hughey Jones	\$ 37.50	1133	Travel Claim
50460000231	50258241	2/18/2005	Ray Styles	\$ 137.25	1133	Travel Claim
50460000235	50258243	2/18/2005	Richard I. Proctor	\$ 175.88	1133	Travel Claim
50460000236	50258244	2/18/2005	Robert J. Hooks	\$ 66.75	1133	Travel Claim
50460000309	50273267	3/1/2005	Marcia M. Umphrey	\$ 148.50	1133	Travel Claim
50460000338	50283312	3/5/2005	Brenda Karen Bagley	\$ 266,333.00	1133	Statewide TV & Radio Campaign
50460000337	50283313	3/5/2005	J. Gary Brown	\$ 5,000.00	1133	VR Ads
50460000308	50273268	3/1/2005	Martha Adams Graham	\$ 45.00	1133	Travel Claim
50460000209	50273270	3/1/2005	M. Donald Davis, Jr	\$ 447.93	1133	Travel Claim
50460000328	50278566	3/3/2005	Glenda Curl	\$ 63.75	1133	Travel Claim
50460000340	50294763	3/1/12/05	Sonja G. Grace	\$ 75.00	1133	Travel Claim
50460000208	50330285	3/30/2005	Valvier H. Bright	\$ 124.50	1133	Travel Claim
50460000218	50330286	3/30/2005	Valvier H. Bright	\$ 56.25	1133	Travel Claim
50460000525	50520213	7/13/2005	Denise B. Cornwell	\$ 93.77	1133	HAVA Lunch Reimbursement
50460000307	50273269	3/1/2005	Evelyn A. Morgan	\$ 40.50	1133	Travel Claim
			Total	\$278,093.21		

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50460000231	50258241	2/18/2005	Ray Styles	\$ 137.25	1133	Travel Claim
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			Total	\$278,093.21		